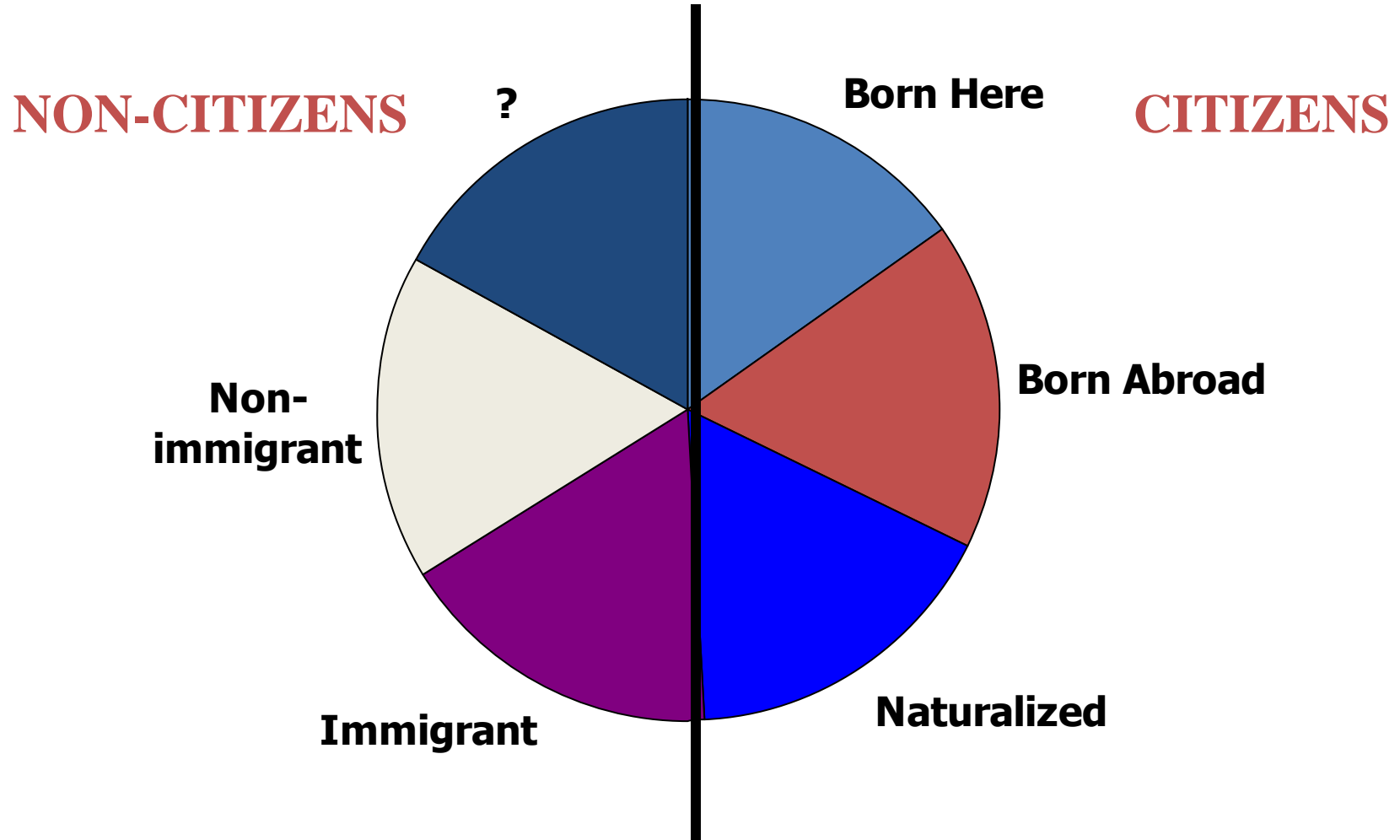


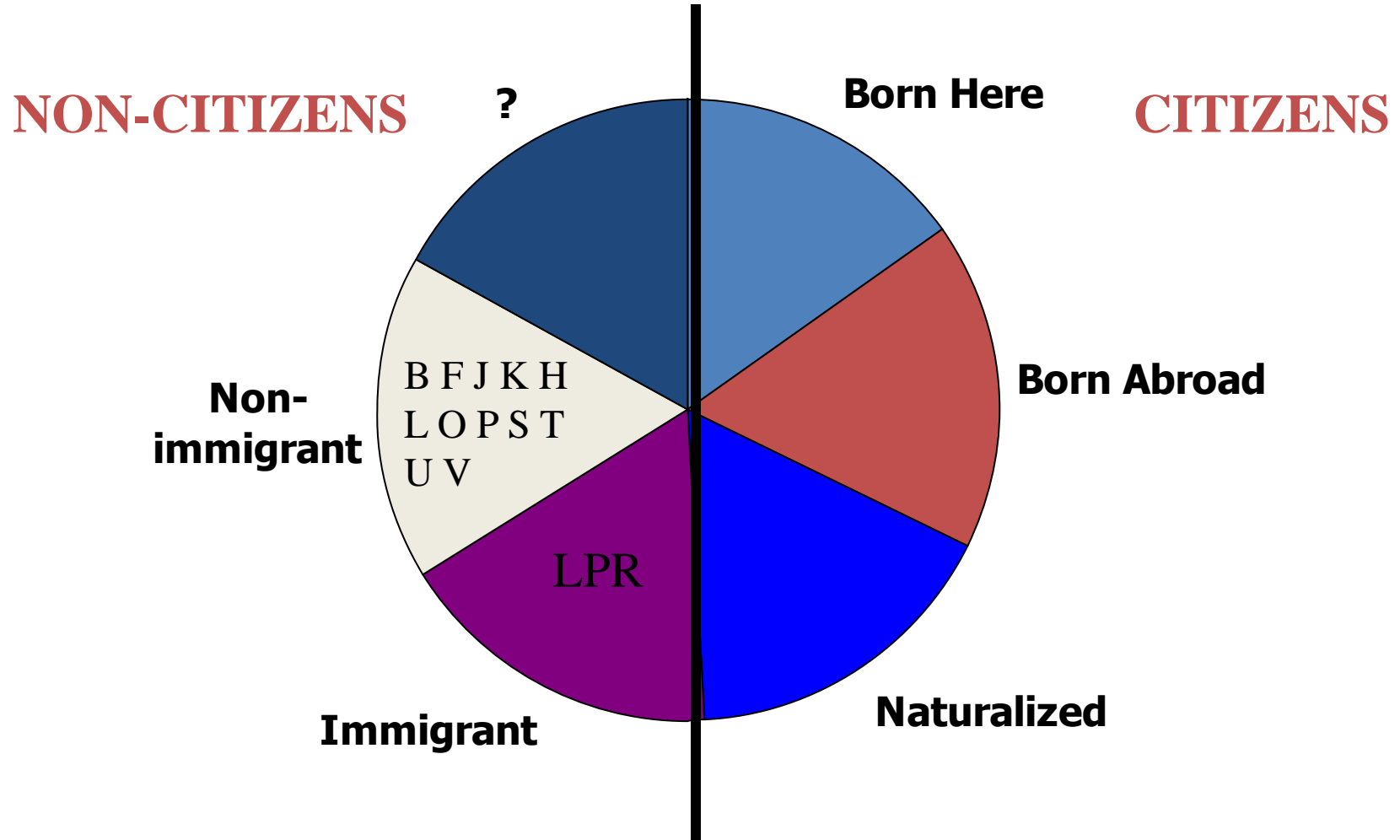
# Immigration Issues in Juvenile Court

- Benefits
- Enforcement

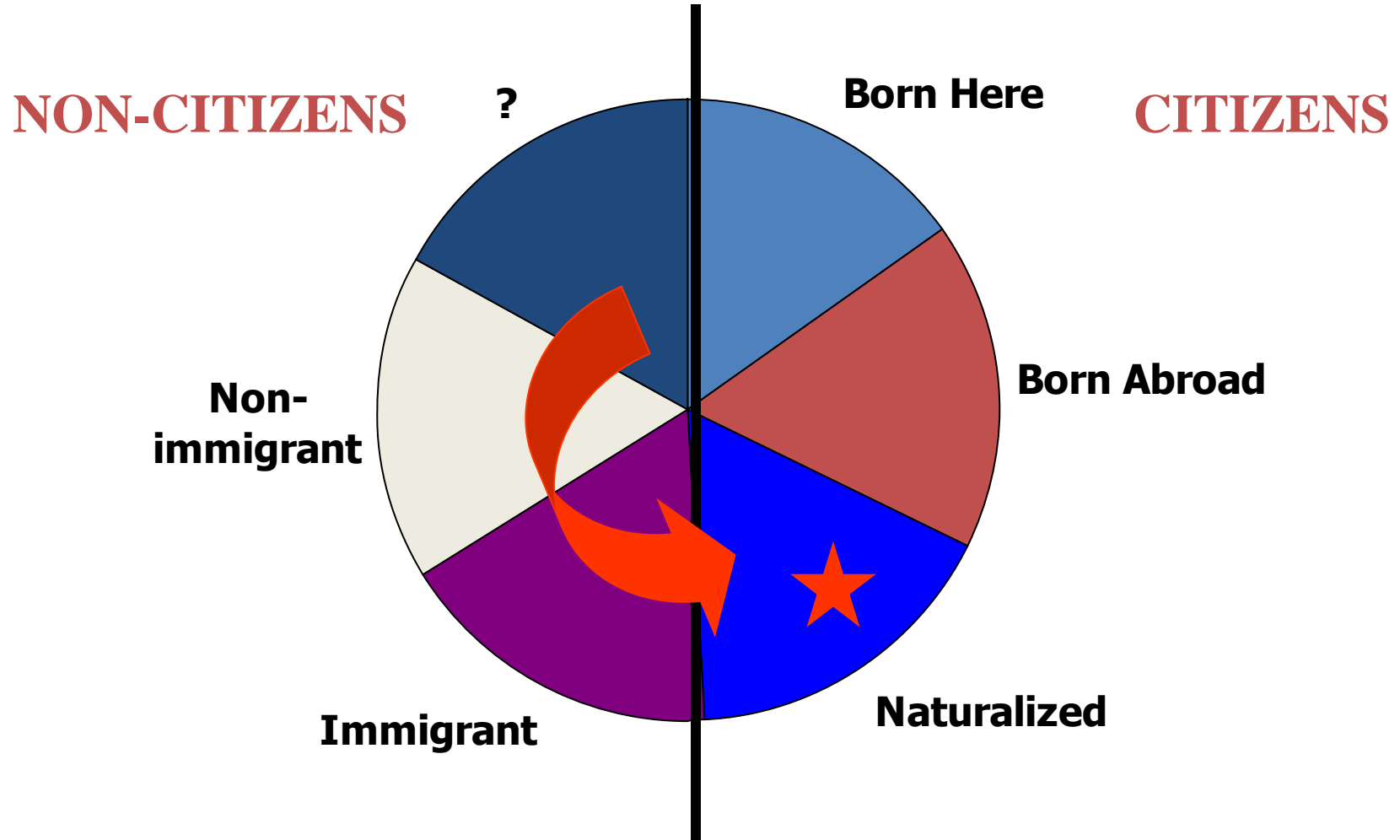
# Immigration Law – “as easy as pie”



# Immigration Law – “as easy as pie”



# Immigration Law – “as easy as pie”



# 3/10 Year Bar

- > 6 months out of status in the U.S. = Must wait in native country 3 years *before* applying for *any benefit*.

# 3/10 Year Bar

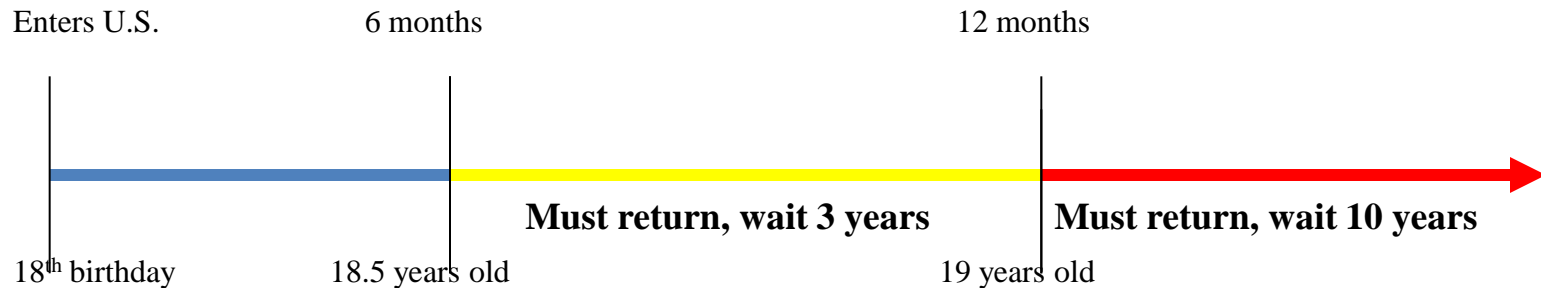
- > 1 year out of status in the U.S. = Must wait in native country 10 years *before* applying *any benefit*.

**Applicants have the burden of proof!**

# Out of Status Clock



The clock starts running upon entry into the U.S. *or* when the child turns 18.\*



\*Children <18 years old, here without permission, are DEPORTABLE.

# Out of Status Clock



The clock starts running upon entry into the U.S. *or* when the child turns 18.\*





# Types of “Benefits”

- Temporary Benefits
  - Tourist
  - Unskilled Labor Visa (H2A/B)
  - Professional/Skilled Labor Visa (H1B)
  - Student Visa
  - Victim Visa (U Visa)
  - Asylum
  - OTHER: Deferred Action for Childhood Arrivals (DACA)
- Permanent Benefits
  - Family Petitions
  - Employer Petitions
  - Diversity Lottery
  - Other: Violence Against Women Act, Special Juveniles, Post-Asylum

# Unskilled Labor Visa(H2A/B)

- Temporary, <1year
- Must meet peak need
- Cannot take job from United States Citizen
- As of 9/30/2007, 65,000 per year
- Long and expensive process
- No Dual Intent Allowed

# Professional/Skilled Visa (H1B)

- 65,000 per year. (Apply in April 1!)
- Specialty Occupation
- Good for 4 years
- Dual intent allowed

# Types of student visas

## **NO CAP!**

- F-1, academic or language visa
- M-1, vocational or technical visa
- J-1, exchange/visitor program visa
  - Dependents
  - Commuters

# F-1 Visa Requirements

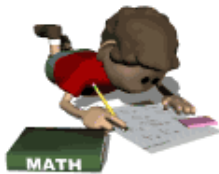
- Student must prove foreign residence with no intention of abandoning it
- Bona fide student with a full course of study
  - Requires 12 or more units/hours
  - Can have 3 hours of online classes
- Proficient in English
- Have sufficient funds available and Medical Insurance

# F-1 Process

## *El Proceso de F-1*

3/10 Bar?

*3/10 Prohibición?*



I-20



<https://www.fmjfee.com>



<http://www.usembassy.gov/>



Permission for duration of study (DS)

*Permiso durante el programa*

# Victims of Violence

- U Visa (10,000)
  - Person suffered substantial physical or mental abuse from being a victim of a qualifying crime
  - Possesses substantial knowledge of the crime
  - Has been, is being, or is likely to be helpful to an agency investigating or prosecuting the crime
  - The crime occurred in the US

*(Good for 4 years, than can apply for LPR)*

# Asylum

Protection is available to a refugee, which is defined as one “who is unable or unwilling to return to... [his or her] native country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”

It “shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture....”

Must apply affirmatively within one year of entry from the United States



# DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

- NOT STATUS, BUT HANDS OFF POLICY
- NO TRAVEL ABROAD
- BENEFIT IS GOOD FOR 2 YEARS
- NO PROCEDURE YET FOR EXTENSION
- WORK AUTHORIZATION and DRIVER'S LICENSE

# DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

- 1. The applicant came to the United States under the age of 16;
- 2. The applicant has continuously resided in the United States for a least five (5) years preceding June 15, 2012, and is present in the United States on June 15, 2012;
- 3. The applicant is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- 4. The applicant has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- 5. The applicant is not above the age of 30 years old.

# DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

WWW. USCIS.GOV GO TO “FORMS”

- FORM I-821D
- FORM I-765 AND I-765WS
- FEE (\$80 FOR FINGERPRINTS AND \$385 = \$485 TO U.S. DEPARTMENT OF HOMELAND SECURITY
- **DOCUMENTATION**

# DACA

	Month*				Cumulative		
	Aug		Sept	Oct	Nov	Totals	
•	<b>Intake Accepted</b>		<b>36,601</b>	<b>104,910</b>	<b>113,494</b>	<b>43,829</b>	<b>298,834</b>
•	<b>Rejected</b>		<b>1,263</b>	<b>3,676</b>	<b>3,719</b>	<b>1,443</b>	<b>10,101</b>
•	Total received		37,864	108,586	117,213	45,272	308,935
•	Average /day		2,913	5,715	5,328	4,527	4,827
•	<b>Biometrics Scheduled</b>	<b>18,616</b>	<b>105,439</b>	<b>98,430</b>	<b>50,718</b>	<b>273,203</b>	
•	<b>Under review</b>		<b>0</b>	<b>29,552</b>	<b>105,648</b>	<b>124,572</b>	<b>124,572</b>
•	Approved	0	1,707	26,908	24,658	53,273	
•	<b>Top Countries of Origin</b>	<b>Received to Date</b>					
•	Mexico		212,514				
•	El Salvador		13,769				
•	Honduras	8,577					
•	Guatemala		7,630				
•	Peru		5,052				
•	South Korea		4,880				
•	Brazil		4,345				
•	Colombia		3,856				
•	Ecuador		3,737				
•	Philippines		2,613				
•	<b>Top States of Residence Received to Date</b>						
•	California	81,858					
•	Texas		47,727				
•	New York	19,320					
•	Florida		15,318				

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# Visa Bulletin for MAY 2012

## FAMILY-SPONSORED PREFERENCES

- **First:** Unmarried Sons and Daughters of Citizens
- **Second:** Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents
  - A. Spouses and Children
  - B. Unmarried Sons and Daughters (<21yo)
- **Third:** Married Sons and Daughters of Citizens
- **Fourth:** Brothers and Sisters of Adult Citizens.

# Visa Bulletin

## FAMILY-BASED PREFERENCES

[illegible]

# Visa Bulletin for 2012

## EMPLOYMENT-BASED PREFERENCES

- **First:** Priority Workers
- **Second:** Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability
- **Third:** Skilled Workers, Professionals
- **Other Workers:** Unskilled Workers
- **Fourth:** Certain Special Immigrants
- **Fifth:** Employment Creation: 3,000 set aside for investors



# Visa Bulletin

## EMPLOYER-SPONSORED PREFERENCES

[illegible]

# DIVERSITY LOTTERY

- Registration is between October and December each year
- Free
- Only for countries with low incidents of immigration

# Violence Against Women Act

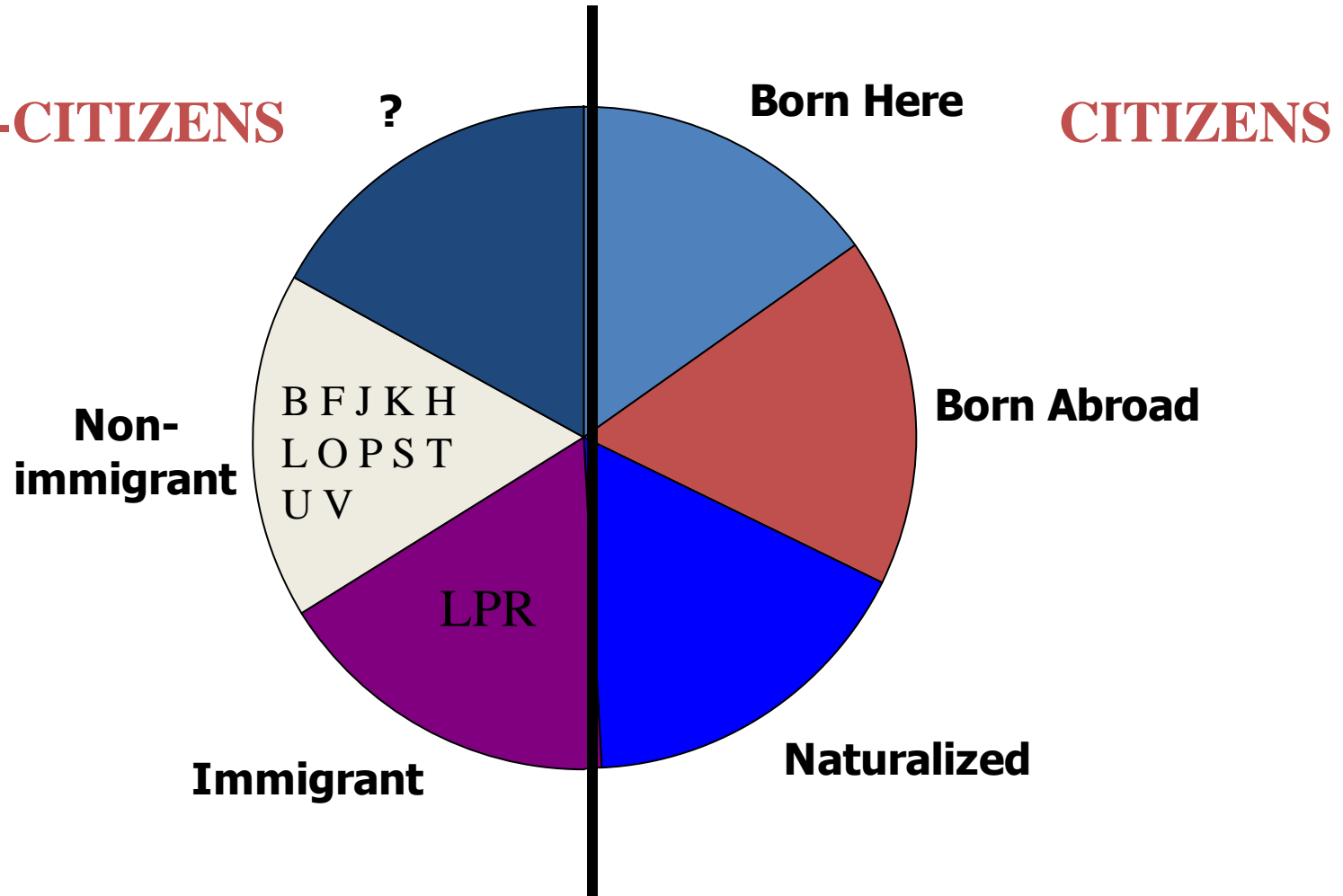
- Spouse, child, or parent to a US Citizen or Lawful Permanent Resident
- Who cohabitated with the abuser
- Who is battered or subjected to extreme cruelty
- Person of good moral character

# SPECIAL IMMIGRANT JUVENILE

## Covers a Child who has:

- Been declared dependent by a juvenile court in the US or has been placed by such court in the custody of a state agency or other individual or entity and
- Whose reunification of one or both of his or her parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law
- Requires a judicial proceeding to determine it is not in the child's best interests to his/her country or his/her parent's country or last habitual residence.

# Immigration Law – “as easy as pie”



# How does an Immigration Case Start?

**ALL PEOPLE have the  
right to remain SILENT  
and the right to an  
ATTORNEY**

# PROSECUTORIAL DISCRETION

- The person's length of presence in the United States, giving particular consideration to presence in lawful status;
- The circumstances of the person's arrival and entry into the United States, especially if the person came to the United States as a young child;
- The person's pursuit of education, particularly students who have graduated from United States high school or have successfully pursued or are pursuing a college degree;
- Military service of the person or their family member;
- The person's criminal history;
- The person's immigration history;
- Whether the person is a national security or safety concern;
- The person's ties and contributions to the community;
- The person's ties to their home country and the condition therewith;
- The person's age with particular consideration given to minors and the elderly;
- Whether the person has a U.S. Citizen or permanent resident spouse, child, or parent;

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# Resources

- American Immigration Lawyers Association ([www.aila.org](http://www.aila.org))
  - Immigration Advocates Network ([www.ian.org](http://www.ian.org))
- Elisabeth Trefonas and Rosslyn Read Trefonas Law, P.C.
  - (307)203-9019
  - [www.TrefonasLaw.com](http://www.TrefonasLaw.com)